

# Mapping the abuse of Australia's tax and transfer system



Women who leave abusive relationships generally do so with increased debt, reduced assets, insecure housing and longer-term economic insecurity (Breckenridge et al, 2020). Most of these women will be experiencing economic abuse even after the relationship has ended, and many cite financial instability as a key factor driving them back into abusive relationships.

It is imperative that the tax and transfer system helps rather than hinders (albeit inadvertently) this cohort of financially vulnerable taxpayers. The following table identifies abuses of the tax and transfer system. Our next steps include examining deficiencies in the existing legal, regulatory and administrative design and operation of the system, and proposing policy responses to overcome these issues.

Stage of relationship	Scenario
During	<b>Perpetrator trades under victim-survivor's ABN &amp; TFN</b> , victim-survivor may have been forced to register ABN or registered without their knowledge. Victim-survivor left with personal tax liabilities.
During	<b>Perpetrators lodge fraudulent BAS/GST returns</b> in the name of their partner, falsely generating large refunds based on fake GST invoices and abscond with the money. The victim-survivor is left with liability to refund the stolen funds. This is aka "The TikTok scheme" and such activities currently are countered by ATO under their "Operation Protego".
During	<b>Perpetrators use victim-survivor's TFN to withdraw funds from their business via wages</b> . Victim-survivor is liable for any tax shortfalls, if fraud reported to ATO info not removed from client account until victim-survivor amends account. Amending the tax return even if no return required. Victim-survivor usually not aware until they submit their tax return, and it is rejected due to this other return submitted. If victim-survivor is not legitimate employee, Company is in liquidation and found to have traded whilst insolvent & perpetrator has transferred any of these funds to victim-survivor, Trustee claims victim-survivor must repay those funds, including through claiming equity in victim-survivor's assets.
During	<b>Perpetrators record their business Company or Trust dividend and distribution payments to the victim-survivor, without the victim-survivor receiving the funds</b> . Action is often deliberate to lower their child support liability. The victim-survivor may be liable for non-disclosure to ATO, be required to pay tax on the distributed funds, with impacts on benefits and possible debt/repayment of benefits received to date.
During	<b>Perpetrators instruct registered tax agents to complete victim-survivors' tax returns and access ATO accounts without verbal or signed consent</b> . This usually occurs when perpetrator has already exploited victim-survivor with other forms of financial abuse. Perpetrator may nominate their own bank account for receipt of victim-survivor's tax refund, rather than providing the victim-survivor's bank account details.
During	<b>Victim-survivor is Director without consent with liability for Director responsibilities</b> . The listing on Business Register may be for current or historic periods. As Director, the victim-survivor becomes personally liable for unmet tax obligations, even if the business has been liquidated. Director Penalty Notices may be issued and the ATO can commence recovery action from the victim-survivor through garnishee notices, offsetting tax credits or initiating legal recovery proceedings.  Whilst a request for consideration of a defence can be made due to illness or 'some other reason' they were not involved in the management of the company; it must be done within specific time frames and the victim-survivor must not have ever undertaken any actions that would be perceived as Director actions.

Stage of relationship	Scenario
During & After	<b>Perpetrators not disclosing their correct income to the victim-survivor.</b> This results in her putting a lower figure on her FTB application and for any other benefits, such as Parenting Payment Partnered. Once the tax return is lodged with the correct income, an income support payment debt and FTB debt accrue in the woman's name due to overpayments. The victim-survivor is then unable to leave the relationship because they are subject to so much debt (NQWLS).
During & After	<b>Perpetrators deliberately understating and subsequently correcting their taxable incomes, resulting in the creation of Centrelink debts for overpayment of Family Tax Benefit.</b> The victim-survivors then owe a Centrelink debt (which, in turn, is considered a debt by the ATO precluding them from being granted relief from tax debts on grounds of serious hardship; as was the case with Clinic client #20070).
During & After	<b>Perpetrators not lodging tax returns for 2+ years to prevent payment of Family Tax Benefit.</b> After two years of non-lodgement, the Family Tax Benefit paid to a mother will cease and will not resume until the returns are lodged. A Centrelink debt is raised in the victim-survivor's name for the entire sum paid during the two years and she is unable to receive any further Family Tax Benefit until the tax returns are lodged or if she separates from the perpetrator (NQWLS).
During & After	<b>Perpetrators minimise their taxable incomes in order to lower their child support liability (Cook et al).</b>
During & After	<b>Perpetrators avoid lodging tax returns in order to lower their child support liability (Cook et al).</b>
During & After	<b>Perpetrators deliberately making false notifications or tip-offs to ATO (and other government agencies).</b> There are no repercussions for the perpetrator for this behaviour because he is protected by privacy laws (NQWLS).
During & After	<b>Perpetrators' registered tax agent not providing documentation and refusing to disclose financial information</b> (many Clinic clients are in this situation). The victim-survivor may still be recorded as Director when these requests are made for Company documents or was Director for the period for when request is made.
After	<b>ATO undertakes audit of funds victim-survivor receives from business via their partner.</b> Funds received may be the result of fraud or other financial abuse listed above. If the Commissioner of Taxation is not satisfied victim-survivor has correctly reported their assessable income for the audited income years, ATO issues position paper with new income tax amount victim-survivor is liable for.

We are grateful for the support of the following collaborators:

Organisation	People
UNSW Tax and Business Advisory Clinic	Ann Kayis-Kumar, Michael Walpole, Kevin O'Rourke OAM, Helen Lam, Jonathan Dorse, Liz Fitzsimons and Mackensie Hargrove
UNSW Gendered Violence Research Network	Jan Breckenridge
Financial Abuse Service NSW, Redfern Legal Centre	Jasmine Opdam
Small Business Debt Helpline	Helen Davis
EACH Vic	Julie Dal Pra
UNSW Centre for Social Impact	Rhiannon Parker
Johnson Winter Slattery	Annemarie Wilmore, Sorcha Kyriacou, Hamish Lennon and Gina Iskander